

Fiscal Services Division

Legislative Services Agency

Fiscal Note

HF 764 - Unemployment, Employer Transfer of Experience (LSB 3165 HV)
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Fiscal Note Version - New

Description

House File 764 allows the unemployment experience of the employer selling an organization, trade, or business to be transferred to the acquiring employer for calculation of the unemployment tax rate under certain conditions. If an employer sells or transfers all or a portion of its organization, trade, or business to another employer which has common ownership, management, or control with the selling employer, and the selling employer no longer performs the same trade or business the unemployment experience may be transferred to the new employer. If the person that acquires the business is not an employer at the time of sale or transfer, House File 764 specifies the business will be assigned a contribution rate as a new employer if the Department of Workforce Development determines that the business was acquired for the primary purpose of obtaining a lower rate of contribution. The Bill requires the Department to make the determination based on objective factors which may include an evaluation of the sales price, the continuation of the business activity, and whether the employees of the original business were hired to perform different work. House File 764 provides various administrative and criminal penalties for knowingly selling/buying or advising someone to sell/buy an organization, trade, or business for purposes of tax avoidance. The criminal penalty is an aggravated misdemeanor.

Background

This legislation is necessary to conform to federal law and to maintain a state-certified unemployment compensation program. If this legislation is not passed, it will result in Iowa losing its state certification and will result in the loss of the current 5.4% federal tax credit for Iowa businesses. The loss of the tax credit would result in Iowa businesses paying an additional \$500.0 million annually in unemployment taxes.

Assumptions

1. The Department of Workforce Development will incur an annual administrative expense of \$71,000 and 1.5 FTE positions for field auditors starting in FY 2006 and will incur a one-time cost of \$25,000 for information technology programming. The total cost to the Department for FY 2006 will be \$96,000.
2. Revenue generated from penalties assessed will be deposited into the Unemployment Compensation Trust Fund, but is not expected to be significant.
3. Although it is unknown how many companies or individuals may attempt to avoid or alter an unemployment insurance rate, business violations are rare, and thus the incidence will be low.

Correctional Impact

The Bill creates a criminal penalty of an aggravated misdemeanor for tax rate avoidance. The average State cost for an aggravated misdemeanor conviction ranges from \$1,100 to \$5,700. It is unknown how many companies or individuals may attempt to avoid or alter an unemployment insurance rate, but House File 764 is not expected to result in a significant correctional impact.

Fiscal Impact

The Unemployment Compensation Program is a federally funded program. No State General Fund dollars are appropriated to operate the Program. As a result, there is no impact to the General Fund despite the costs that will be incurred by the Department of Workforce Development. House File 764 provides conformity to federal law, allowing Iowa to maintain a state-certified unemployment compensation program, resulting in a continued 5.4% federal tax credit for Iowa businesses. Enactment of House File 764 results in an unfunded federal mandate to the Department of Workforce Development but saves Iowa businesses from paying an additional \$500.0 million in federal taxes.

Sources

Department of Workforce Development
Department of Human Rights, Criminal and Juvenile Justice Planning Division

/s/ Holly M. Lyons

March 22, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
